

1 KEVIN V. RYAN (CASBN 118321)  
2 United States Attorney

100 11-31-20  
RECEIVED  
U.S. DISTRICT COURT  
SAN FRANCISCO, CALIFORNIA

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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN FRANCISCO DIVISION

SI

11  
12 UNITED STATES OF AMERICA.

No.

13 Plaintiff.

VIOLATION: 15 U.S.C. §§ 78j(b) and 78ff,  
and 17 C.F.R. § 240.10b-5 - Securities  
Fraud;

14 v.

15 EVAN COLLINS.

SAN FRANCISCO VENUE

16 Defendant.

17  
18 INFORMATION

19 The United States Attorney charges:

20 I. BACKGROUND

21 At all times relevant to this Information:

22 A. The Company

23 1. Network Associates, Inc., ("Network Associates"), a Delaware corporation with principal  
24 offices in Santa Clara, California, manufactured and sold computer programs ("software") and  
25 hardware relating to computer network security and management. Network Associates' fiscal  
26 year ended on December 31. Network Associates' independent auditor was  
27 PriceWaterhouseCoopers.  
28

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1       2. Network Associates was a publicly traded company whose stock was registered with the  
2 Securities and Exchange Commission (the "SEC") pursuant to Section 12(b) of the Securities  
3 Exchange Act of 1934. Network Associates' shares originally traded on the National Association  
4 of Securities Dealers Automated Quotation System ("NASDAQ") under the symbol "NETA."  
5 On February 12, 2002, Network Associates' shares began trading on the New York Stock  
6 Exchange under the symbol "NET."

7       3. McAfee.com was a Delaware corporation with principal offices in Sunnyvale, California,  
8 and a majority owned subsidiary of Network Associates, trading on the NASDAQ under the  
9 symbol MCAF. McAfee.com was the world's largest consumer security Application Service  
10 Provider. McAfee.com, among things, delivered internet security software over the internet to  
11 consumers worldwide. During 1999 and 2000, McAfee.com used the same computerized  
12 accounting system as did Network Associates.

13       4. As public companies, both Network Associates and McAfee.com and their officers and  
14 employees were required to comply with regulations of the SEC. Those regulations are designed  
15 to protect members of the investing public by, among other things, ensuring that a company's  
16 financial information is accurately recorded and disclosed to the public. The federal securities  
17 laws also prohibit corporate "insiders" from buying or selling company-related securities on the  
18 basis of material non-public information about the company. Current employees of a company  
19 and in some instances, former employees, are considered "insiders" under the federal securities  
20 laws.

21       B. The Defendant

22       5. From September 1996 through July 1999, the defendant Collins was the controller of  
23 McAfee Associates which became Network Associates following a merger with Network  
24 General in December 1997. Collins reported to the Chief Financial Officer at Network  
25 Associates. Starting in July 1999, the defendant Collins was the Chief Financial Officer (CFO)  
26 at McAfee.com until Network Associates re-acquired McAfee.com in October 2002, at which  
27 time the defendant Collins left.  
28

1       C. Duties and Obligations of Public Companies and Their Officers

2       6. As public companies, Network Associates and McAfee.com and their officers were  
3 required to adhere to GAAP, including Software Revenue Recognition, Statement of Position 97-  
4 2 (Amer. Inst. of Certified Public Accountants 1997) ("SOP 97-2"), which became effective for  
5 Network Associates on January 1, 1998. SOP 97-2 prescribes requirements for recognizing  
6 revenue from the sale of software licenses. Among other requirements, revenue from a sale of  
7 software may not be recognized if the sale was subject to a right of return or other contingency, if  
8 the sale price was not fixed and determinable, or if collection was not probable. Defendant  
9 Collins was familiar with and understood the requirements of SOP 97-2.

10       7. In or about September 2000 and continuing to at least November 2000, the defendant  
11 Collins learned that Network Associates' then controller and others knowingly employed a  
12 scheme to defraud Network Associates' shareholders, its creditors, the public, and the SEC, and  
13 to deprive Network Associates of its intangible right to honest services, by manipulating  
14 Network Associates' financial statements, including those relating to software license sales  
15 revenue, by among other things, improperly transferring 15 million dollars from a Network  
16 Associates' tax reserve account to an accounts receivable reserve account in order to improperly  
17 increase revenue. Based on this and other inside information Collins obtained, Collins sought to  
18 enrich himself by trading Network Associates' stock during November 2000 because he believed  
19 that Network Associates would not meet its 4<sup>th</sup> quarter 2000 earnings estimates and that its  
20 financial books and records did not comply with GAAP.

21       8. On or about November 1 and 2, 2000, defendant Collins exercised stock options and sold  
22 30,000 shares of Network Associates' common stock for net proceeds of approximately  
23 \$250,000. Collins made these trades on the basis of the material non-public information that  
24 Network Associates' publicly reported financial statements were false and misleading and  
25 materially misrepresented the company's revenues, expenses and net income and the probability  
26 that the company would eventually need to restate those numbers.

COUNT ONE: (15 U.S.C. §§ 78j(b) and 78ff; 17 C.F.R. § 240.10b-5 -- Securities Fraud);

9. Paragraphs 1 through 8 are incorporated here by reference.

10. On or about November 1 and 2, 2000, in the Northern District of California, the  
defendant

EVAN COLLINS,

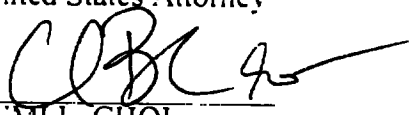
did willfully, directly and indirectly, by the use of means and instrumentalities of interstate  
commerce and of the facilities of a national securities exchange, use and employ manipulative  
devices and contrivances in connection with the purchase and sale of securities, namely, the stock  
of Network Associates, in contravention of the rules and regulations prescribed by the Securities  
and Exchange Commission, namely, 17 C.F.R. § 240.10b-5, by (a) employing a device, scheme,  
and artifice to defraud and (b) engaging in acts, practices, and courses of dealing which would  
and did operate as a fraud and deceit.


11. Specifically, on the basis of confidential, material, non-public information regarding the  
overstated nature of Network Associates' software license revenue for Fiscal Year 1999 and  
2000, and the probability that the company would eventually need to restate those numbers,  
Collins exercised his options and thereby acquired and then sold 30,000 shares of Network  
Associates common stock, realizing net proceeds totaling approximately \$250,000.

All in violation of Title 15, United States Code, Sections 78j(b) and 78ff, and Title 17,  
Code of Federal Regulations, Section 240.10b-5.

DATED: March 29, 2001

KEVIN V. RYAN  
United States Attorney

  
EUMIL L. CHOI  
Acting Chief, Criminal Division

Approved as to form: 

J. A. Bornstein

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